

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DAVID PLASTIK,

Plaintiff,

- against -

CABLE NEWS NETWORK, INC.

Defendant.

Docket No. 1:20-cv-1221

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff David Plastik (“Plastik” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Cable News Network, Inc. (“CNN” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of musician Eddie Van Halen, owned and registered by Plastik, a professional photographer. Accordingly, Plastik seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Plastik is a professional photographer in the business of licensing his photographs for a fee having a usual place of business at 5455 S. Fort Apache Road, #108-109, Las Vegas, Nevada 89148.

6. Upon information and belief, CNN is a domestic business corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 10 Columbus Circle, New York, New York 10019. At all times material, hereto, CNN has owned and operated a website at the URL: [www.CNN.com](http://www.CNN.com) (the “Website”).

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff’s Ownership of the Photograph**

7. Plastik photographed musician Eddie Van Halen (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Plastik is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

10. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-118-797.

#### **B. Defendant’s Infringing Activities**

11. CNN ran an article with a video on the Website entitled *Rock legend Eddie Van Halen helps bring music back to schools*. See:

<https://www.cnn.com/2017/02/22/entertainment/eddie-van-halen-music-in-school/index.html>. A screenshot of the Photograph on the Website is attached hereto as Exhibit B.

12. CNN did not license the Photograph from Plaintiff for its Website, nor did CNN have Plaintiff's permission or consent to publish the Photograph on its Website.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST CNN)**  
**(17 U.S.C. §§ 106, 501)**

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. CNN infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. CNN is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by CNN have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant CNN be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;

2. Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded punitive damages for copyright infringement;
5. That Plaintiff be awarded attorney's fees and costs;
6. That Plaintiff be awarded pre-judgment interest; and
7. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
February 11, 2020

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